©
Government of Kerala
1978

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIII] Trivandrum, Sunday, 19th March 1978 / 28th Phalguna 1899 [No. 192

GOVERNMENT OF KERALA

Law (Legislation A) Department

NOTIFICATION

No. 2392-Leg. (A) 1/78/Law. *Dated, Trivandrum, 19th March, 1978/ 28th Phalguna, 1899.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 18th day of March, 1978.

By order of the Governor,

K. VISWANATHAN NAIR,
Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1978.

33/1612/MC.

ACT 13 OF 1978

THE KERALA LAND REFORMS (AMENDMENT) ACT, 1978

An Act further to amend the Kerala Land Reforms Act, 1963.

Preamble.—WHEREAS it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Land Reforms (Amendment) Act, 1978.

(2) It shall be deemed to have come into force on the 1st day of October, 1977.

2. *Amendment of section 85.*—In section 85 of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act),—

(a) in sub-section (9), for the opening paragraph, the following paragraph shall be, and shall be deemed to have been, substituted with effect on and from the 1st day of January, 1970, namely:—

"The Taluk Land Board may, at any time, set aside its order under sub-section (5) or sub-section (7), as the case may be, and proceed afresh under that sub-section if it is satisfied that—

(a) the extent of lands surrendered by, or assumed from, a person under section 86 is less than the extent of lands which he was liable to surrender under the provisions of this Act; or

(b) the lands surrendered by, or assumed from, a person are not lawfully owned or held by him; or

(c) in a case where a person is, according to such order, not liable to surrender any land, such person owns or holds lands in excess of the ceiling area.";

(b) the *Explanation* after sub-section (9) shall be numbered as *Explanation II* and before that *Explanation*, the following *Explanation* shall be inserted, namely:—

"*Explanation I.*—For the removal of doubts, it is hereby clarified that the references in this sub-section to the Taluk Land Board shall, in cases in which the order under sub-section (5) or sub-section (7) has been passed by the Land Board, be construed as references to the Land Board.".

3. *Amendment of section 103.*—In section 103 of the principal Act, after sub-section (1A), the following sub-section shall be, and shall be deemed to have been, inserted with effect on and from the 2nd day of November, 1972, namely:—

"(1B) The Government may, within such time as may be prescribed, prefer a petition for revision to the High Court against any final order referred to in sub-section (1), on any of the grounds mentioned in that sub-section.".

4. *Transitory provisions.*—(1) Notwithstanding anything contained in any law, or in any judgment, decree or order of any court, the Land Board or the Taluk Land Board, as the case may be, may set aside any order passed by it under sub-section (5) or sub-section (7), as the case may be, of section 85 of the principal Act and proceed afresh under that sub-section if it is satisfied that any person who, according to such order, was not liable to surrender any land, had owned or held, on the date of such order, land in excess of the ceiling area:

Provided that the Land Board or the Taluk Land Board shall not—

(a) set aside any order under this sub-section without giving the persons affected thereby an opportunity of being heard;

(b) initiate any proceedings under this sub-section after the expiry of one year from the commencement of this Act.

(2) Notwithstanding anything contained in any law, or in any judgment, decree or order of any court,—

(a) the Government may, within one year from the commencement of this Act, prefer a petition for revision to the High Court against any final order referred to in sub-section (1) of section 103 of the principal Act, passed before such commencement, on any of the grounds mentioned in that sub-section;

(b) any petition for revision purported to have been preferred by the Government to the High Court under section 103 of the principal Act before the commencement of this Act shall be deemed to have been preferred under the said section as amended by this Act and accordingly—

(i) any such petition dismissed by the High Court before the commencement of this Act solely on the ground that the Government were not competent to prefer such petition shall, on application by the Government within ninety days from such commencement, be restored and proceeded with by that court;

(ii) any such petition pending before the High Court shall not be dismissed solely on the ground that the Government were not competent to prefer such petition.

5. *Repeal and saving.*—(1) The Kerala Land Reforms (Amendment) Ordinance, 1977 (17 of 1977), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance or under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Act or, as the case may be, under the principal Act as amended by this Act.

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GOVERNMENT OF KERALA

Law (Legislation A) Department

NOTIFICATION

No. 3068-Leg. (A) 1/78/Law. *Dated, Trivandrum, 19th March, 1978/ 28th Phalguna, 1899.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 18th day of March, 1978.

By order of the Governor,

K. VISWANATHAN NAIR,
Additional Law Secretary.

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33/1013/MC.

ACT 14 OF 1978

THE GURUVAYOOR DEVASWOM ACT, 1978

An Act to make provision for the proper administration of the Guruvayoor Devaswom.

Preamble.—WHEREAS the Sree Krishna Temple at Guruvayoor is a very ancient temple of unique importance which owns extensive properties and endowments and in which millions of devotees from all over India are reposing their faith and belief;

AND WHEREAS under the scheme framed by the High Court of Madras in Appeals Nos. 211 and 212 of 1930, for the administration of the said Temple, as modified by the District Court, South Malabar, in O.S. No. 1 of 1938, the administration, control and management of the Temple and its properties and endowments had been vested in the hereditary trustees, namely, the Zamorin Raja of Calicut and the Karanavan for the time being of the Mallisseri Illom at Guruvayoor;

AND WHEREAS the administration and management of the said Temple and its properties and endowments had deteriorated and a situation had arisen rendering it expedient to reorganise, in the interests of the general public, the scheme of management of the affairs of the Devaswom, the Guruvayoor Devaswom Act, 1971, was enacted to provide better management of the Devaswom in supersession of the said scheme;

AND WHEREAS the High Court of Kerala in its judgment in Original Petition No. 314 of 1973 struck down the operative provisions of the said Act on the ground that those provisions are violative of articles 25 and 26 of the Constitution of India;

AND WHEREAS it is apprehended that if the administration, control and management of the Temple and its properties and endowments are vested in the hereditary trustees, the same situation which had rendered it expedient to reorganise the scheme of management of the affairs of the Devaswom and to enact the said Act is likely to arise;

AND WHEREAS it is expedient to provide in the public interest and in the interest of the worshippers of the Temple for a proper administration of the said Devaswom in accordance with the law as laid down in the said judgment;

BE it enacted in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Guruvayoor Devaswom Act, 1978.

(2) It shall be deemed to have come into force on the 29th day of November, 1977.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Administrator" means the Administrator appointed under section 14;

(b) "Commissioner" means an officer not below the rank of Secretary to Government, who professes the Hindu Religion and believes in Temple worship, appointed by the Government, by notification in the Gazette, to be the Commissioner for the purposes of this Act;

(c) "Committee" means the Guruvayoor Devaswom Managing Committee constituted under section 3;

(d) "court" means the District Court having jurisdiction over the area in which the Temple is situated;

(e) "Devaswom" means the Temple, and includes its properties and endowments and the subordinate temples attached to it;

(f) "person having interest in the Temple" means a person who is entitled to attend at, or is in the habit of attending, the performance of worship or service in the Temple or who is entitled to partake, or is in the habit of partaking, in the benefit of the distribution of gifts thereat;

(g) "prescribed" means prescribed by rules made under this Act;

(h) the expressions "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in the Constitution of India;

(i) "Temple" means the Sree Krishna Temple at Guruvayoor.

CHAPTER II

THE COMMITTEE

3. *Incorporation.*—(1) The administration, control and management of the Devaswom shall be vested in a Committee constituted in the manner hereinafter provided.

(2) The Committee shall by the name of "the Guruvayoor Devaswom Managing Committee" be a body corporate and shall have perpetual succession and a common seal and shall by the said name sue and be sued through the Administrator.

4. *Composition of Committee.*—(1) The Committee shall consist of the following members, namely:—

(a) the Zamorin Raja;

(b) the Karanavan for the time being of the Mallisseri Illom at Guruvayoor;

(c) the Thanthri of the Temple, *ex-officio;*

(d) a representative of the employees of the Devaswom nominated by the Hindus among the Council of Ministers;

(e) not more than five persons, of whom one shall be a member of a Scheduled Caste, nominated by the Hindus among the Council of Ministers from among persons having interest in the Temple.

(2) A person shall be disqualified for being nominated under clause (e) of sub-section (1), if—

(i) he believes in the practice of untouchability or does not profess the Hindu Religion or believe in temple worship; or

(ii) he is an employee under the Government or the Devaswom; or

(iii) he is below thirty years of age; or

(iv) he is engaged in any subsisting contract with the Devaswom; or

(v) he is subject to any of the disqualifications mentioned in clauses (a), (b) and (c) of sub-section (3) of section 5.

(3) The members of the Committee shall, at its first meeting, elect one of its members as its Chairman.

(4) Every member of the Committee shall, before entering upon his office, make and subscribe in the presence of the Commissioner an oath in the following form, that is to say—

"I, A B, do swear in the name of God that I profess the Hindu Religion and believe in temple worship and that I do not believe in the practice of untouchability.".

5. *Term of office of non-official members, resignation and removal of such members and casual vacancies in their office.*—(1) A member nominated under clause (d) or clause (e) of sub-section (1) of section 4 shall hold office for a period of two years from the date of his nomination and shall be eligible for re-nomination.

(2) A member referred to in sub-section (1) may resign his office by giving notice in writing thereof to the Government and shall cease to be a member on his resignation being accepted by the Government.

(3) The Government may, by order, remove from office a member referred to in sub-section (1) if—

(a) he is of unsound mind and stands so declared by a competent court; or

(b) he has applied for being adjudged as insolvent, or is an undischarged insolvent; or

(c) he has been convicted of any offence involving moral turpitude; or

(d) they are satisfied that he has been guilty of corruption or misconduct in the administration of the Devaswom; or

(e) he has absented himself from more than three consecutive meetings of the Committee and is unable to explain such absence to the satisfaction of the Committee; or

(f) he, being a legal practitioner, has acted or appeared on behalf of any person against the Devaswom in any legal proceeding after he has been nominated as a member of the Committee; or

(g) he ceases to profess the Hindu Religion or to believe in temple worship; or

(h) he has committed or abetted the commission of any act in support or furtherance of the practice of untouchability.

(4) A member shall not be removed under sub-section (3) unless he has been given a reasonable opportunity of showing cause against his removal.

(5) A member who is removed under sub-section (3) may, within one month from the date of the receipt by him of the order of removal, institute a suit in the court to set aside the order.

(6) The term of office of a member nominated to fill a casual vacancy shall be for so long only as the member whose place has been filled would have been entitled to hold office if the vacancy had not occurred.

6. *Dissolution and supersession of Committee.*—(1) If, in the opinion of the Government, the Committee is not competent to perform or makes default in performing the duties imposed on it under this Act or abuses or exceeds its powers, the Government may, after such inquiry as may be necessary, by notification in the Gazette, supersede the Committee for such period, not exceeding six months, as the Government may deem fit.

(2) Before issuing a notification under sub-section (1), the Government shall communicate to the Committee the grounds on which they propose

to do so, fix a reasonable time for the Committee to show cause against the proposal and consider its explanations and objections, if any.

(3) Any member of the Committee may, within a period of one month from the date of publication of the notification under sub-section (1), institute a suit in the court to set aside the notification.

(4) Where the Committee is superseded under this section, the Commissioner shall exercise the powers and perform the functions of the Committee until the expiry of the period of supersession:

Provided that the period during which the Committee remains superseded shall not have the effect of extending the maximum term of office of a member nominated under clause (d) or clause (e) of sub-section (1) of section 4 beyond a period of two years.

7. *Meetings of the Committee.*—(1) The Committee shall maintain its office at such place or places at Guruvayoor as the Committee may determine, for the transaction of its business.

(2) Every meeting of the Committee shall be presided over by the Chairman and in his absence by a person elected for the purpose by the members present from among themselves.

(3) No business shall be transacted at any meeting of the Committee unless at least three members thereof are present.

(4) Questions arising at a meeting of the Committee shall be decided by a majority of the votes of the members present thereat, and the Chairman or the person presiding shall have and exercise a casting vote in the case of equality of votes.

8. *Acts or proceedings of Committee not to be invalidated.*—No act or proceeding of the Committee shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Committee;

(b) any defect in the election or nomination of a person acting as the Chairman or a member of the Committee; or

(c) any irregularity in the procedure of the Committee not affecting the merits of the case.

9. *Remuneration of the Chairman and members.*—No member of the Committee shall receive or be paid any salary or other remuneration except such travelling or daily allowances, if any, as may be prescribed.

10. *Duties of Committee.*—Subject to the provisions of this Act and the rules made thereunder, it shall be the duty of the Committee—

(a) subject to the custom and usage in the Temple, to arrange for the proper performance of the rites and ceremonies in the Temple and the subordinate temples attached thereto in accordance with the *dittam* or scale of expenditure fixed for the Temple and the subordinate temples under section 20 or, till the *dittam* or scale of expenditure is fixed under that section, in accordance with the *dittam* or scale of expenditure fixed for the Temple and the subordinate temples under section 51 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951);

(b) to provide facilities for the proper performance of worship by the worshippers;

(c) to ensure the safe custody of the funds, valuable securities and jewelleries and the preservation and management of the properties vested in the Temple;

(d) to ensure maintenance of order and discipline and proper hygienic conditions in the Temple and the subordinate temples attached thereto and of proper standard of cleanliness and purity in the offerings made therein;

(e) to ensure that the funds of the endowments of the Temple are spent according to the wishes so far as may be known of the donors;

(f) to make provision for the payment of suitable emoluments to the salaried staff of the Devaswom; and

(g) to do all such things as may be incidental and conducive to the efficient management of the affairs of the Devaswom and the convenience of the worshippers.

11. *Alienation of Devaswom properties.*—(1) No movable property of a non-perishable nature which is in the possession of the Committee and the value of which is more than five thousand rupees and no jewelleries shall be sold, pledged or otherwise alienated unless it is sanctioned by the Commissioner as being necessary or beneficial to the Devaswom.

(2) Any exchange, sale or mortgage and any lease of any immovable property belonging to or given or endowed for the purposes of the Devaswom shall be null and void unless it is sanctioned by the Commissioner as being necessary or beneficial to the Devaswom.

(3) Before according sanction under sub-section (1) or sub-section (2), the Commissioner shall publish the particulars relating to the proposed transaction in such manner as may be prescribed inviting objections and suggestions

with respect thereto and shall duly consider all objections and suggestions received from the Committee or other persons having interest in the Temple.

(4) When according sanction under sub-section (1) or sub-section (2), the Commissioner may impose such conditions and give such directions as he may deem necessary regarding the utilisation of the amount raised by the transaction, the investment thereof and, in the case of a mortgage, regarding the discharge of the same within a reasonable period.

(5) A copy of the order made by the Commissioner under this section shall be communicated to the Government and to the Committee and shall be published in such manner as may be prescribed.

(6) The Committee may, within three months from the date of receipt by it of a copy of the order, and any person having interest in the Temple may, within three months from the date of publication of the order, institute a suit in the Court to modify the order or set it aside.

(7) Notwithstanding anything contained in sub-section (1), no antiquity belonging to the Devaswom shall be sold, pledged or otherwise alienated.

Explanation.—For the purposes of this sub-section, "antiquity" shall mean—

(a) (i) any coin, sculpture, painting, epigraph or other work of art or craftsmanship;

(ii) any article, object or thing detached from a building or cave;

(iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages;

(iv) any article, object or thing of historical interest, which has been in existence for not less than one hundred years; and

(b) any manuscript, record or other document which is of scientific, historical, literary or aesthetic value and which has been in existence for not less than seventy-five years.

12. *Limitation of borrowing and lending powers.*—(1) The Committee shall have no power to borrow money from or to lend money to any person unless it is sanctioned by the Commissioner as being necessary or beneficial to the Devaswom.

(2) The Commissioner shall not refuse sanction under sub-section (1) unless the Committee has been given an opportunity of making representation against such refusal.

(3) Where sanction is refused under sub-section (1), the Committee may, within three months from the date of receipt by it of the decision of the Commissioner, institute a suit in the Court to set aside the decision.

13. *Administration report.*—(1) The Committee shall annually submit to the Commissioner a report on the administration of the affairs of the Devaswom at such time as may be prescribed, and such report shall be forthwith published by the Committee in the prescribed manner.

(2) The Commissioner shall submit a copy of the report prepared and published under sub-section (1) to the Government and the Government shall, as soon as possible, cause the report to be laid before the Legislative Assembly.

CHAPTER III

ADMINISTRATION AND ESTABLISHMENT

14. *Appointment of Administrator.*—(1) The Committee shall appoint an officer of Government not below the rank of Deputy Collector to be the Administrator for the Devaswom, from among a panel of names furnished by the Government.

(2) No person shall be appointed under sub-section (1) unless he professes the Hindu Religion and believes in temple worship.

(3) The Administrator appointed under the Guruvayoor Devaswom Act, 1971 (6 of 1971), and holding office at the commencement of this Act, shall, until the appointment of an Administrator under sub-section (1) or until the expiry of a period of three months from such commencement, whichever is earlier, be deemed to be the Administrator appointed under sub-section (1).

15. *Conditions of service of Administrator.*—(1) The Administrator shall be a full-time officer of the Devaswom and shall not undertake any work unconnected with his office without the permission of the Committee.

(2) The Administrator shall be paid out of the funds of the Devaswom such salary and allowances as the Government may with the concurrence of the Committee fix in this behalf.

(3) There shall be levied a contribution from the funds of the Devaswom towards leave allowances, pension and provident fund of the Administrator to the extent required by the rules for the time being in force.

(4) The Government shall withdraw the Administrator from his office if a resolution recommending such withdrawal is passed by a majority of not less than two-thirds of the total membership of the Committee.

(5) Subject to the provisions of sub-sections (1), (2) and (4), the conditions of service of the Administrator shall be such as may be determined by the Committee by regulations made in this behalf.

16. *Additional charge of office of Administrator.*—(1) Notwithstanding the provisions of sections 14 and 15, it shall be competent for the Government to

appoint an officer of the Government not below the rank of Deputy Collector to be in additional charge of the office of the Administrator pending appointment of the Administrator under section 14 or when the office is temporarily vacant:

Provided that the period of such additional charge shall not exceed three months.

(2) No person shall be appointed under sub-section (1) unless he professes the Hindu Religion and believes in temple worship.

(3) An officer appointed to be in additional charge of the office of the Administrator under sub-section (1) shall be paid such allowances as the Government may fix in this behalf.

17. *Powers and duties of Administrator.*—(1) The Administrator shall be the secretary to the Committee and its chief executive officer and shall, subject to the control of the Committee, have powers to carry out its decisions in accordance with the provisions of this Act.

(2) The Administrator shall arrange for the proper collection of offerings made in the Temple.

(3) The Administrator shall have power to incur expenditure not exceeding five thousand rupees to meet unforeseen contingencies during the interval between two meetings of the Committee.

18. *Establishment schedule.*—(1) The Administrator may, as soon as may be after the commencement of this Act, prepare and submit to the Committee a schedule setting forth the duties, designations and grades of the officers and employees who may in his opinion constitute the establishment of the Temple and embodying his proposals with regard to the salaries and allowances payable to them.

(2) The Committee shall forward the schedule submitted to it under sub-section (1) with its recommendations thereon to the Commissioner for approval.

(3) The Commissioner shall, after considering the recommendations of the Committee, approve such schedule either without modification or with such modifications as he deems necessary, and thereupon such schedule as approved by the Commissioner shall come into force.

(4) No change shall be effected in the schedule except with the approval of the Commissioner.

(5) Subject to such exceptions as the Committee may by general or special order direct, the officers and employees of the Devaswom in the service of the Devaswom immediately before the commencement of this Act shall continue as such, and the conditions of their service shall be such as may be prescribed by regulations made under this Act.

(6) A person who does not profess the Hindu Religion or believe in temple worship shall be disqualified for being appointed as, or for being, an officer or employee of the Devaswom.

19. *Appointment of officers and employees.*—(1) Appointment of all officers and other employees of the Devaswom shall be made by the Committee.

(2) Ten per cent of the posts in each grade of the officers and other employees of the Devaswom shall be reserved for the Scheduled Castes and the Scheduled Tribes, of which one-fifth shall be reserved for the Scheduled Tribes.

(3) Selection of the officers and other employees of the Devaswom may be made by sub-committees constituted by the Committee from among its members:

Provided that selection of employees to be in charge of the rituals and other ceremonies of the Temple shall not be made by any sub-committee of which the Thantri of the Temple is not a member.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the procedue for the selection and appointment of officers and other employees of the Devaswom shall be such as may be determined by the Committee by regulations made in this behalf.

20. *Fixing of standard scales of expenditure.*—(1) The Committee may, from time to time, submit to the Commissioner proposals for fixing the *dittam* or scale of expenditure in the Devaswom, and the amounts which should be allotted to the various objects connected with the Devaswom or the proportions in which the income or other property of the Devaswom may be applied to such objects.

(2) The Committee shall publish such proposals at the premises of the Devaswom and in such other manner as the Commissioner may direct, together with a notice stating that within one month from the date of such publication any person having interest in the Temple may submit objections or suggestions to the Commissioner.

(3) If, on a scrutiny of such proposals, and any objections and suggestions made by persons having interest in the Temple, it appears to the Commissioner that the scale of expenditure or any item in the scale of expenditure is at variance with the established usage of the Devaswom, or is not justified by its financial position, the Commissioner may call for the remarks of the Committee and if, after considering the same, the Commissioner is of the opinion that any modification is required in the scale of expenditure or any item in the scale of expenditure, he shall pass orders accordingly, and such orders shall, subject to the provisions of sub-section (4), be final.

(4) The Committee may, within three months from the date of receipt by it of the order passed by the Commissioner under sub-section (3), institute a suit in the court to modify the order or to set it aside.

CHAPTER IV

BUDGET, ACCOUNTS AND AUDIT

21. *Budget.*—(1) The Committee shall, before the end of March in each financial year, submit to the Commissioner, in such form as may be

fixed by him, a budget estimate of the receipts and expenditure of the Devaswom for the following financial year.

(2) Every such budget shall make adequate provision for—

(a) the *dittam* or scale of expenditure for the time being in force;

(b) the due discharge of all liabilities binding on the Devaswom;

(c) the repair and renovation of buildings connected with the Devaswom; and

(d) the maintenance of a working balance.

(3) The Commissioner may, after giving notice to the Committee in the prescribed manner and after considering its representations, if any, make such alterations, omissions or additions in the budget as the Commissioner may deem fit.

(4) The Commissioner shall send a copy of the budget as approved by him to the Government.

22. *Revised or supplementary budget.*—If in the course of any year the Committee considers it necessary to modify the figures shown in the budget with regard to its receipts or expenditure, it may submit a supplementary or revised budget to the Commissioner:

Provided that no alteration shall be made in the working balance without the consent of the Commissioner.

23. *Accounts and audit.*—(1) The Committee shall keep regular accounts of all receipts and disbursements.

(2) The accounts of the Devaswom shall be subject to concurrent audit, that is to say, the audit shall take place as and when expenditure is incurred.

(3) The audit shall be made by auditors appointed in the prescribed manner, who shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

24. *Authority to whom audit report is to be submitted.*—After completing the audit for any year or shorter period or for any transaction or series of transactions, as he deems fit, the auditor shall send a report to the Commissioner.

25. *Contents of audit report.*—(1) The auditor shall specify in his report all cases of irregular, illegal or improper expenditure or of failure to recover moneys or other property due to the Devaswom or of loss or waste of money or other property thereof, caused by neglect or misconduct.

(2) The auditor shall also report on such other matters relating to the accounts as may be prescribed, or on which the Commissioner may require him to report.

26. *Rectification of defects disclosed in audit and order of surcharge against Committee, etc.*—(1) The Commissioner shall send a copy of every audit

report to the Committee and it shall be the duty of the Committee to remedy any defects or irregularities pointed out by the auditor and report the same to the Commissioner.

(2) If, on a consideration of the report of the auditor along with the report, if any, of the Committee, the Commissioner is satisfied that the Committee or any officer or other employee of the Devaswom was guilty of misappropriation or wilful waste of the funds of the Devaswom or of gross neglect resulting in loss to the Devaswom, the Commissioner may, after giving notice to the Committee or such officer or other employee to show cause why an order of surcharge should not be passed against it or him and after considering its or his explanation, if any, by order certify the amount so lost and direct the Committee or such officer or other employee to pay within a specified time such amount personally and not from the funds of the Devaswom:

Provided that if in respect of any expenditure or dealing with the property of the Devaswom, the Committee or such officer or other employee had obtained the directions of the Commissioner or the Government and had acted in accordance with the said directions, the Committee or such person shall not be held responsible.

(3) The Commissioner shall forward a copy of the order under sub-section (2) with the reasons for the same by registered post to the Committee or the officer or other employee concerned.

(4) The Committee or officer or other employee aggrieved by an order of the Commissioner under sub-section (2) may, within thirty days of the receipt by it or him of that order, apply to the court to modify or set aside the order, and the court, after taking such evidence as is necessary, may confirm, modify or remit the surcharge.

(5) An order of surcharge under this section against the Committee shall not bar a suit for accounts against it except in respect of the matters finally dealt with by such order.

(6) Any amount recoverable from the Committee or any officer or other employee by way of surcharge may on requisition made by the Commissioner be recovered under the provisions of the Kerala Revenue Recovery Act, 1968, as if it were an arrear of public revenue due on land.

Chapter V

GENERAL

27. *Authority of Committee to incur expenditure for certain purposes.*—The Committee may, after making adequate provision for the purposes referred to in sub-section (2) of section 21, incur expenditure out of the funds of the Devaswom for all or any of the following purposes, namely:—

(a) maintenance, management and administration of the Temple, its properties and the temples subordinate thereto;

(b) training of archakas to perform the religious worship and ceremonies in the Temple and the temples subordinate thereto;

(c) medical relief, water supply and other sanitary arrangements for the worshippers and the pilgrims and construction of buildings for their accommodation;

(d) culture and propagation of the tenets and philosophy associated with the Temple;

(e) the establishment and maintenance of or the making of any grant or contribution to, any poor home or other similar institution which is maintained for the benefit mainly of persons belonging to the Hindu Community;

(f) the establishment and maintenance of any educational institution which provides for encouragement of education in the Sanskrit language or the maintenance of any such educational institution owned or managed by the Devaswom or in which the Devaswom has interest; and

(g) the making of any contribution to any religious institution:

Provided that nothing contained in clause (c) shall prevent the continuance of any grant or contribution to any poor home or other similar institution which is maintained by or for the benefit of persons other than those belonging to the Hindu community, if such grant or contribution was being made to such poor home or institution before the commencement of this Act as the customary practice associated with the Temple:

Provided further that no expenditure shall be incurred for any of the purposes mentioned in clauses (f) and (g) unless the same is sanctioned by custom or practice associated with the Temple.

28. *Committee to be in possession of Devaswom properties.*—(1) The Committee shall be entitled to take and be in possession of all movable and immovable properties including jewelleries, records, documents and other assets belonging to the Devaswom.

(2) If in obtaining such possession, the Committee or any person authorised in this behalf by the Committee, or the Administrator is resisted or obstructed by any one, the Committee or the Administrator, as the case may be, may make a requisition in the prescribed form to the Collector of the district in which any such property is situate to deliver possession thereof to the Committee or the Administrator, as the case may be.

(3) Where a requisition is made to the Collector under sub-section (2), the Collector shall hold a summay inquiry into the facts of the case and, if satisfied that the resistance or obstruction was without any just cause, shall comply with the said requisition; and in exercising the powers under this section, the Collector may use such force as may be necessary.

(4) Every person authorised by the Committee or acting under its instructions in pursuance of this section or the Administrator shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

(5) Nothing contained in this section shall bar the institution of a suit by any person aggrieved by an order made thereunder for establishing his title to the property.

29. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Government or the Commissioner or the Committee or any member thereof or the Administrator or any other person acting under the instructions of the Committee or authorised by it, for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

30. *Public officers to furnish copies of or extracts from certain documents.*—All public officers having custody of any record, register, report or other document relating to the Devaswom shall furnish such copies of or extracts from the same as may be required by the Commissioner or the Committee.

31. *Cost of proceedings, etc.*—The costs, charges and expenses of and incidental to any suit, appeal or application to a court shall be in the discretion of the court, which may direct the whole or any part of such costs, charges and expenses to be met from the property or income of the Devaswom or to be borne and paid in such manner and by such persons as it thinks fit.

32. *Notifications, orders, etc., not to be questioned in court of law.*—Save as otherwise expressly provided in this Act, no notification issued, order passed, decision made, proceedings or action taken or other thing done under the provisions of this Act by the Government or the Commissioner shall be liable to be questioned in any court of law.

33. *Power of Government to call for records and pass orders.*—(1) The Government may call for and examine the record of the Commissioner or of the Committee in respect of any proceeding, not being a proceeding in respect of which a suit or application to the court is provided by this Act, to satisfy themselves that the provisions of this Act have not been violated or the interests of the Devaswom have been safeguarded and if, in any case, it appears to the Government that any decision or order passed in such proceeding has violated the provisions of this Act or is not in the interest of the Devaswom, they may modify, annul or reverse such decision or order or remit such decision or order for reconsideration:

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

(2) The Government may stay the execution of any such decision or order pending the exercise of their powers under sub-section (1) in respect thereof.

34. *Savings.*—Nothing in this Act shall, save as otherwise expressly provided in this Act or the rules made thereunder, affect any honour, emolument or perquisite to which any person is entitled by custom or otherwise from or in the Devaswom, or its established usage in regard to any other matter.

35. *Thantri to be final authority in religious matters.*—(1) Nothing in this Act shall be deemed to authorise the Committee or the Commissioner or the Government to interfere with the religious or spiritual matters pertaining to the Devaswom.

(2) The decision of the Thantri of the Temple on all religious, spiritual, ritual or ceremonial matters pertaining to the Devaswom shall be final, unless such decision violates any provision contained in any law for the time being in force.

36. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order do anything not inconsistent with this Act or the rules made thereunder, which appears to them necessary for the purpose of removing the difficulty.

37. *Scheme framed for the Temple not to apply.*—The scheme framed for the Temple by the High Court of Madras in Appeals Nos. 211 and 212 of 1930, as modified by the District Court, South Malabar, in O. S. No. 1 of 1938, shall not apply to the Temple.

38. *Rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the publication of the administration report under section 13;

(b) the custody of the records and properties of the Devaswom;

(c) the payment of contributions towards the leave allowances, pension and provident fund of the Administrator;

(d) any other matter which is required to be, or may be, prescribed under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

39. *Regulations.*—(1) The Committee may, subject to the approval of the Government, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for the manner in which the duties imposed on it under this Act and its functions thereunder shall be discharged.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the conditions of service of the Administrator and the other officers and employees of the Devaswom;

(b) enforcement of the observance of the rites and ceremonies and other usages in the Temple and the Temples subordinate thereto;

(c) any other matter for which regulations are required to be made for the purposes of this Act.

40. *Madras Act XIX of 1951 not to apply to Devaswom.*—The provisions of the Madras Hindu Religious and Charitable Endowments Act, 1951, (Madras Act XIX of 1951), shall cease to apply to the Devaswom.

41. *Repeal and validation.*—(1) The Guruvayoor Devaswom Act, 1971 (6 of 1971) (hereinafter referred to as the said Act), is hereby repealed.

(2) Notwithstanding the repeal of the said Act, all orders passed or purported to have been passed, decisions made or purported to have been made, proceedings or actions taken or purported to have been taken and things done or purported to have been done by the Sree Guruvayoor Devaswom Managing Committee or the Administrator or the Renovation Executive Committee under the said Act shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been passed, made, taken or done by the appropriate authority under this Act as if this Act were in force on the dates on which such orders, decisions, proceedings, actions and things were passed, made, taken or done or purported to have been passed, made, taken or done.

42. *Committee to be successor of Renovation Executive Committee.*—Notwithstanding the repeal of the said Act by section 41, the Guruvayoor Devaswom Managing Committee constituted under this Act shall for all purposes be deemed to be the successor of the Renovation Executive Committee approved and recognised by the Government under the said Act.

43. *Repeal and saving.*—(1) The Guruvayoor Devaswom Ordinance, 1977 (25 of 1977), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Act.

Government of Kerala
1978

Reg. No. KL/TV/12

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GOVERNMENT OF KERALA

Law (Legislation A) Department

NOTIFICATION

No. 2344-Leg. (A) 2/78/Law. *Dated, Trivandrum, 19th March, 1978/ 28th Phalguna, 1899.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 18th day of March, 1978.

By order of the Governor,

K. VISWANATHAN NAIR,
Additional Law Secretary.

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83/1014/MC.

ACT 15 OF 1978

THE VALIAMMA THAMPURAN KOVILAKAM ESTATE AND THE PALACE FUND (PARTITION) AND THE KERALA JOINT HINDU FAMILY SYSTEM (ABOLITION) AMENDMENT ACT, 1978

An Act to amend the Valiamma Thampuran Kovilakam Estate and the Palace Fund (Partition) Act, 1961 *and the Kerala Joint Hindu Family System (Abolition) Act,* 1975.

Preamble.—WHEREAS it is expedient to amend the Valiamma Thampuran Kovilakam Estate and the Palace Fund (Partition) Act, 1961 and the Kerala Joint Hindu Family System (Abolition) Act, 1975, for the purposes hereinafter appearing;

BE it enacted in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Valiamma Thampuran Kovilakam Estate and the Palace Fund (Partition) and the Kerala Joint Hindu Family System (Abolition) Amendment Act, 1978.

2. *Amendment of section* 2.—In section 2 of the Valiamma Thampuran Kovilakam Estate and the Palace Fund (Partition) Act, 1961 (16 of 1961) (hereinafter referred to as the principal Act),—

(a) for clause (c), the following clause shall be, and shall be deemed to have been, substituted with effect on and from the 28th day of December, 1971, namely:—

"(c) 'family' means the Marumakkathayam joint family consisting of the four main thavazhies of the Ruler of the former State of Cochin within the meaning of clause (22) of article 366 of the Constitution of India;";

(b) in clause (d), the words "of the Maharaja of Cochin" shall be, and shall be deemed to have been, omitted with effect on and from the 28th day of December, 1971.

3. *Substitution of new section for section* 3.—For section 3 of the principal Act, the following section shall be substituted, namely:—

"3. *Partition of the Estate and the Palace Fund.*—(1) The seniormost male member of the family shall, within sixty days from the date of commencement of the Valiamma Thampuran Kovilakam Estate and the Palace Fund

(Partition) and the Kerala Joint Hindu Family System (Abolition) Amendment Ordinance, 1978, direct the Board to effect partition of the Estate and the Palace Fund among all the members entitled to a share of the Estate and the Palace Fund under section 4 of the Kerala Joint Hindu Family System (Abolition) Act, 1975 (30 of 1976), and such direction shall be published by the Board in the Gazette.

(2) If the seniormost male member fails to direct the Board as required by sub-section (1), the Board shall, on the expiry of the period specified in that sub-section, proceed to effect the partition of the Estate and the Palace Fund among the members referred to in sub-section (1), and the partition so effected shall be valid notwithstanding anything contained in section 17 of the Proclamation.".

4. *Omission of sections 4 and* 5.—Sections 4 and 5 of the principal Act shall be, and shall be deemed to have been, omitted with effect on and from the 1st day of December, 1976.

5. *Amendment of section* 6.—In section 6 of the principal Act, for the words "Maharaja of Cochin", the words "seniormost male member" shall be, and shall be deemed to have been, substituted with effect on and from the 28th day of December, 1971.

6. *Amendment of section* 8.—In section 8 of the principal Act,—

(a) in the marginal note, the words "of the Maharaja" shall be, and shall be deemed to have been, omitted with effect on and from the 28th day of December, 1971;

(b) for the words "Maharaja of Cochin", the words "former Ruler of Cochin" shall be, and shall be deemed to have been, substituted with effect on and from the 28th day of December, 1971;

(c) the words "and subsisting at the time of the partition" shall be inserted at the end.

7. *Substitution of new section for section* 11.—For section 11 of the principal Act, the following section shall be, and shall be deemed to have been, substituted with effect on and from the 28th day of December, 1971, namely:—

"11. *Amendment of Proclamation.*—In the Proclamation (IX of 1124) dated the 29th June, 1949, promulgated by the Maharaja of Cochin,—

(i) in section 2, the word "and" at the end of clause (b) shall be omitted and, after that clause, the following clause shall be inserted, namely:—

"(bb) 'family' means the Marumakkathayam joint family consisting of the four main thavazhies of the Ruler of the former State of Cochin within the meaning of clause (22) of article 366 of the Constitution of India;";

(ii) for the words "Our family", wherever they occur, the words "the family" shall be substituted;

(iii) for the word "Us", wherever it occurs, the words "the seniormost male member of the family" shall be substituted;

(iv) in section 12, for the words "Our previous sanction", the words "the previous sanction of the seniormost male member of the family" shall be substituted;

(v) in sections 17 and 20, for the words "Our approval", the words "the approval of the seniormost male member of the family" shall be substituted;

(vi) in section 22, the words "the Estate and the Palace Fund shall be impartible and" shall be omitted;

(vii) section 24 shall be omitted.".

8. *Amendment of Act* 30 *of* 1976.—In the Kerala Joint Hindu Family System (Abolition) Act, 1975 (30 of 1976), after section 7, the following section shall be, and shall be deemed always to have been, inserted, namely:—

"8. *Proclamation IX of* 1124 *and Act* 16 *of* 1961 *to continue in force.*—Notwithstanding anything contained in this Act or in any other law for the time being in force, Proclamation (IX of 1124) dated the 29th June, 1949, promulgated by the Maharaja of Cochin, as amended by the Valiamma Thampuran Kovilakam Estate and the Palace Fund (Partition) and the Kerala Joint Hindu Family System (Abolition) Amendment Act, 1978, and the Valiamma Thampuran Kovilakam Estate and the Palace Fund (Partition) Act, 1961 (16 of 1961), as amended by the said Act, shall continue to be in force and shall apply to the Valiamma Thampuran Kovilakam Estate and the Palace Fund administered by the Board of Trustees appointed under section 3 of the said Proclamation.".

9. *Repeal and saving.*—(1) The Valiamma Thampuran Kovilakam Estate and the Palace Fund (Partition) and the Kerala Joint Hindu Family System (Abolition) Amendment Ordinance, 1978 (1 of 1978), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act or the Proclamation (IX of 1124) dated the 29th June, 1949, promulgated by the Maharaja of Cochin or the Kerala Joint Hindu Family System (Abolition) Act, 1975 (30 of 1976), as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act or the said Proclamation or Act, as the case may be, as amended by this Act as if this Act had come into force on the 6th day of January, 1978.